

Advertising Standards Authority

**Broadcast Advertising
Adjudications**

8 March 2006



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ADVERTISER: Asda Stores Ltd
AGENCY: Publicis Ltd
Date: 8 March 2006
Media: Television
No. of complaints: 1

COMPLAINT:

A TV ad for Asda stores claimed "Pop off to ASDA for a selection of quality wines at half price. From Chablis for £4.98 to Kumala for only £3.98 ...", onscreen stated "While stocks last ...".

A viewer from Northern Ireland, who tried to take advantage of the offer for Chablis wine but was told that the offer applied to stores in mainland UK only, objected that the ad was misleading.

ADJUDICATION: Complaint not upheld

Publicis Ltd responded on behalf of Asda. They explained that stores in Northern Ireland had opened only recently but the offer was available in all stores; they believed that the complainant had been given the wrong information in store.

The Broadcast Advertising Clearance Centre (BACC) said they were satisfied the offer was available in stores in Northern Ireland and put the complaint down to local store confusion.

Although the ASA was concerned that the complainant had been given the wrong information, we noted the offer for Chablis wine was available across all stores.

The ad was investigated under CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising), 5.2.1 (Evidence) and 5.2.3 (Qualifications), but was not found in breach.

ADVERTISER: Ford Motor Company Ltd t/a Land Rover UK Ltd

AGENCY: Rainey Kelly Campbell Roalfe / Young & Rubicam Ltd

Date: 8 March 2006

Media: Television

No. of complaints: 71

COMPLAINT:

An ad for Land Rover's Discovery 3 showed an Inuit driving a sled pulled by a team of huskies across an Arctic landscape. A Land Rover then appeared and drove alongside him. The Inuit and the Land Rover driver smiled at each other. The Inuit then knelt on his sled to get a better look at the inside of the vehicle but was so distracted his huskies pulled him over a large bump in the snow and he was knocked off his sled. The ad ended with the Inuit frantically chasing after his sled which was fast disappearing into the distance.

1. 71 viewers believed the ad was racist and denigrated Inuit culture and
2. 60 viewers complained the ad showed behaviour harmful to the environment. Many objected that it was distasteful to show a vehicle such as the Discovery 3 in an Arctic landscape because of the effect climate change had had in the Arctic and therefore on indigenous people. The viewers considered such vehicles contributed significantly to global warming.

ADJUDICATION:

1. Complaints not upheld

The Broadcast Advertising Clearance Centre (BACC) said they interpreted the ad as a humorous story. They believed the focus of the ad was the ability of the Discovery 3 to cope with the harsh terrain compared to the sled, a vehicle that had been specifically designed for that landscape. They said the Inuit character was bemused that the Land Rover was coping better with the rough terrain, but he was in no way intended to be a figure of fun.

Rainey Kelly Campbell Roalfe / Young & Rubicam (RKCR) responded on behalf of Land Rover. They said Land Rover carried out detailed research to ensure clothing, location and props used in their ads were authentic and that Land Rover went to great lengths to ensure any communities shown in their advertising were depicted in an authentic and respectful manner. They said the ad was intended to be light-hearted and humorous, but not at the expense of the Inuit. RKCR explained this ad was one of a set of two. The second ad which had also been broadcast was a continuation of the story and showed the Land Rover driver giving the Inuit character and his dogs a lift and the Inuit teaching the driver his language.

The ASA considered that most viewers would find the ad humorous. The idea that the Inuit would be confronted by a Land Rover in a usually deserted Arctic terrain was absurd. Although the Inuit was seen to lose his balance and fall off his sled, we did not consider he was being mocked either because of his race or because of his means of transport. We

were aware that some viewers would be sensitive to humorous references to identifiable cultural groups but we did not consider the portrayal of the Inuit would generally be interpreted as promoting a harmful or negative stereotype. We concluded the ad was unlikely to cause harm or serious or widespread offence.

2. Complaints not upheld

The BACC said they shared the view of Land Rover and RKCR on this aspect of complaint.

RKCR said they had worked with Land Rover for five years and believed Land Rover would not intentionally create an ad that damaged the environment. They explained the ad was shot on a snow covered airstrip and they took great lengths to ensure action was taken to protect any location they visited. They said Land Rover promoted a Drive Responsibly Off-Road policy which featured on all their press materials. They also had an extensive global program that helped many projects protect and develop the environment that ranged from rescuing animals in Africa with the Born Free foundation to working with the National Trust.

We considered the ad was set in an Arctic environment to give an example of the kind of terrain the vehicle could cope with. We did not consider the fantastical scenario would be seen by the majority of viewers as condoning behaviour that would be prejudicial to that environment. Although we acknowledged some viewers would find the depiction of a 4x4 vehicle in an Arctic environment distasteful, at no point in the ad did it claim the Discovery 3 was environmentally friendly. We concluded the majority of viewers would be unlikely to interpret the ad as stating such vehicles had no harmful effect on the environment.

The ad was investigated under CAP (Broadcast) TV Advertising Standards Code rules 6.1 (Offence), 6.6 (Harmful or negative stereotypes) and 6.8 (Protection of the environment) but was not found in breach.

ADVERTISER: Fresh Breath Ltd t/a Dentyl pH Mouthwash

AGENCY: Full House Productions

Date: 8 March 2006

Media: Magazine and television

No. of complaints: 1

COMPLAINT:

A magazine ad and a TV ad described what users could expect from using Dentyl pH Mouthwash.

a. The magazine ad was headed “No other mouthwash works in the same way,” then went on to say “Dentyl pH is unique. Activated by shaking, its advanced formula cleverly attracts, absorbs and removes bacteria and food particles that cause plaque, gum disease and bad breath – so effectively, that you will see the results for yourself in the sink ... Dentyl pH allows you to visibly monitor your oral hygiene as, even when used after brushing, you will see the food particles and debris, including colonies of bacteria, that had been left behind.”

b. The TV ad showed a woman using the product in her bathroom. It said “Sarah thought her mouth was clean. Until she tried smooth-tasting, alcohol free Dentyl pH. Dentyl pH has a unique advanced action that helps physically lift, absorb and remove bacteria and food particles that cause plaque, bad breath and gum disease so effectively you’ll actually see what’s removed in the sink. There’s no other mouthwash like Dentyl pH.”

A competitor, Pfizer Consumer Healthcare, believed that there was insufficient evidence to support the claims and that both ads were misleading. Pfizer doubted whether Dentyl pH:

1. was unique (magazine ad) and whether it had “a unique advanced action” (TV ad) and
2. could attract, absorb and remove (magazine ad) or help physically lift, absorb and remove (TV ad) bacteria and food particles that cause plaque, gum disease and bad breath.
3. We challenged the claim “There’s no other mouthwash like Dentyl pH” in the TV ad.

ADJUDICATION:

Dentyl pH provided substantiation, including studies that were based on two decades of research by various international authorities on oral malodour, which they believed backed up the claims. We asked a dental expert for his view on the substantiation.

1. & 3. Complaint not upheld

Dentyl pH believed their product was unique because its two-phase process was unique in mouthwashes and was protected by a patent which could not be used by any other manufacturer. They also said that no other mouthwash needed to be shaken in order to function effectively and that no other mouthwash provided the same visual effect in the

sink. They added that Dentyl pH contained a dye that tinted bacteria and food particles allowing the user to see the results after use.

The Broadcast Advertising Clearance Centre (BACC) endorsed Dentyl pH's comments on the TV ad.

The expert considered that in the sense of ingredients and their formulation, all mouthwashes would be unique. He agreed that the dye in the product helped to disclose the deposits, but pointed out that rinsing the mouth with any liquid – including water – would physically help to remove food deposits and bacteria.

The ASA understood that Dentyl pH was the only product on the market that claimed to use a two-phase process and a dye that tinted bacteria and food particles. On that basis we did not consider it misleading to describe Dentyl pH as unique (magazine ad) or as having “a unique advanced action” (TV ad).

2. Complaint not upheld

Dentyl pH believed the documents and studies they provided demonstrated that the composition of the product worked in the way claimed.

The BACC endorsed Dentyl pH's comments on the TV ad and added that the claim was qualified by the use of “helps” physically lift.

The expert considered that the substantiation demonstrated that the product was effective in working against bacteria in the mouth and that although it was possible that the product worked by attracting, lifting, absorbing and removing them as claimed, it did not prove that conclusively. For the general user, however, we considered that the claims were unlikely to be seen as claiming that Dentyl pH worked in a way that was significantly different from other mouthwashes. On that basis we did not consider it misleading to describe Dentyl pH as being able to attract, absorb and remove (magazine ad) or help physically lift, absorb and remove (TV ad) bacteria and food particles that cause plaque, gum disease and bad breath.

The magazine ad was investigated under CAP Code clauses 3.1 (Substantiation) and 7.1 (Truthfulness) but was not found in breach.

The TV ad was investigated under CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising) and 5.2.1 (Evidence) but was not found in breach.

ADVERTISER: KLM Taxis
BROADCASTER: Connect FM
Date: 8 March 2006
Media: Radio
No. of complaints: 1

COMPLAINT:

A radio ad for KLM Taxis, broadcast on Connect FM, stated "Let's say, for the sake of argument, that a particular taxi trip cost you £1.50 last month. The same trip this month will cost you £2.20. And do you get any more for your 70p? No! That price has increased by a whopping 47%. But not at KLM Taxis! We refuse to put our prices up that much. Why should we? Don't pay the increase - call KLM on ... KLM Taxis. The cheaper fare to get you there."

Kettering Borough Council (KBC) had recently raised the maximum tariffs that taxis operating in the borough could apply.

A competitor, Alpha Taxi, complained that the ad was misleading and damaging to other taxi companies in the area because the price rise referred to in the ad applied to the initial "flag fare" charged to all passengers. They said that although the charge had recently been increased by around 47%, the distance that this covered had also been increased by 42%.

ADJUDICATION: Complaint not upheld

The Radio Advertising Clearance Centre (RACC), who cleared the ad, said it was not claiming that the KLM Taxis tariff was 47% cheaper than the new maximum tariff but simply that KLM Taxis were not increasing their tariff by as much as the new figure.

KLM Taxis said the KBC maximum flag fare tariff increased from £1.50 (for a distance of 6/17 of a mile) to £2.20 (for a distance of ½ a mile). They added that all the charges for additional distance, number of passengers, day of the week, holidays, etc. increased also. They said that they had felt that the rise had been excessive and had been allowed by KBC to charge a lower than maximum flag fare tariff of £1.60 (for a distance of 5/18 of a mile). They said that their flag fare was what many of their passengers making short trips in the town centre would pay.

The ASA noted that the flag fare for the new maximum tariff had increased by £0.70 and that the distance that this covered had also increased. However, the ad claimed that, under the new maximum tariff, passengers would be charged £2.20 for a journey that cost £1.50 before. We considered this to be true. We noted that KLM Taxis had also increased their flag fare tariff, however we did not consider that they were making the claim that their tariffs had not increased at all. We considered the phrase "we refuse to raise our prices by that much" communicated that they had raised their prices but not by as much as the new maximum tariffs allowed.

The ad was investigated under CAP (Broadcast) Radio Advertising Standards Code section 2, rules 3 (Misleadingness), 6 (Fair comparisons) and 7 (Denigration) but was not found in breach.

ADVERTISER: Macmillan's Bar
BROADCASTER: Splash FM
Date: 8 March 2006
Media: Radio
No. of complaints: 1

COMPLAINT

A radio ad for Macmillan's bar and restaurant that stated "top ten favourite things to do on the way home from work: adjust my car seat into the recline position ... beat the lights at the West Worthing crossing ... stop off at Macmillan's Bar for a friendly drink and a chat ... stay at Macmillan's bar for another friendly drink and a bite to eat ... with a free glass of wine ...".

A listener believed the ad promoted bad driving, including drink driving. He believed the suggestions to recline the driver's seat when going home, beat the lights, drive to the bar and have at least two drinks, were irresponsible and particularly unsuitable for broadcast during times when children or teenagers were likely to be listening.

ADJUDICATION: Complaint upheld

Splash FM said the ad was intended to be humorous, not irresponsible, and they had not received any direct complaints. They argued that the drinks referred to in the ad were not necessarily alcoholic and the term "beating the lights" did not mean driving through a red light. They believed the reference to the recline position of a seat did not encourage dangerous driving, because listeners would not necessarily recline as far as the horizontal position; they said their intention was to convey comfort and relaxation after work. Splash FM said the first part of the ad referred to a single listener, but the offer of a free glass of wine was positioned in the latter half of the ad and was intended to refer to couples who were eating in the restaurant. They pointed out that the ad campaign had ended and would not be repeated.

The ASA welcomed Splash FM's decision to stop using the ad, and considered that local listeners were unlikely to infer from the reference to reclining the seat and beating the lights that the ad condoned dangerous driving. We were concerned, however, that the reference to motorists stopping off at the restaurant and bar while driving home from work, in conjunction with the promotion of a free glass of wine, irresponsibly linked drinking alcohol and driving.

The ad breached CAP (Broadcast) Radio Advertising Standards Code, section 3, rule 11.4 (Safety - alcoholic drinks) and must not be broadcast again.